

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

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**DOMINIQUE DEWAYNE GULLEY-FERNANDEZ,**

Plaintiff,

-vs-

**Case No. 15-CV-995**

**DR. TRACY JOHNSON, TROY HERMANS,  
WARDEN GARY BOUGHTON, CAPTAIN DAVID GARDNER,  
CATHERINE MORRISON, KEVIN KALLAS, and  
GARY ANKARLO,**

Defendants.

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**DECISION AND ORDER**

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The *pro se* plaintiff is incarcerated at the Wisconsin Secure Program Facility. He is proceeding on an Eighth Amendment claim based on allegations that the defendants failed to treat his gender disorder. The plaintiff has filed several motions, which will be addressed herein. In addition, the Court will consolidate this case with *Gulley-Fernandez v. Johnson*, Case No. 15-cv-795-RTR (E.D. Wis.)

**Plaintiff's Motions for Judgment and Injunctive Relief**

On February 1, 2016, the plaintiff filed a motion for summary judgment and preliminary injunction. (Dkt. No. 43.) He seeks summary judgment based on the defendants' alleged failure to answer the complaint. The plaintiff seeks a preliminary injunction for transfer to another institution so that he may be properly treated for his gender dysphoria.

On February 2, 2016, the plaintiff filed a separate motion for summary judgment. (Dkt. No. 44.) By this motion, the plaintiff again seeks judgment based on the defendants' alleged failure to timely answer the complaint.

On February 16, 2016, the plaintiff filed a Third Motion for Temporary Restraining Order or Motion for Injunctive Relief. (Dkt. No. 52.) He asserts that he is being subjected to retaliation, discrimination, harassment, and cruel and unusual punishment. He requests that the Court transfer him to another institution where he will not be subjected to retaliation, discrimination, harassment, or inadequate mental health care.

As an initial matter, the plaintiff's motions for summary judgment based on the defendants' failure to answer the complaint are without merit. The defendants timely answered the complaint on February 1, 2016.

Turning to the plaintiff's requests for injunctive relief, he sought the same relief in his other case (15-cv-795), and for similar reasons. For the reasons stated in the Court's order in Case Number 15-cv-795, the Court will deny the plaintiff's requests for a preliminary injunction or temporary restraining order.

#### Plaintiff's Motion for Impartial Jury

The plaintiff has filed a motion for an impartial jury. (Dkt. No. 45.) The defendants have already made a jury demand in this case, and the plaintiff's jury demand has been noted. The plaintiff need not file a formal

motion for an impartial jury and the Court will therefore deny his motion as moot.

Plaintiff's Motion to Dismiss Three Defendants

The plaintiff has filed a motion to dismiss defendants David Gardner, Troy Hermans, and Gary Boughton from this action. (Dkt. No. 46.) The defendants do not oppose the dismissal. Accordingly, the Court will grant the motion. *See* Fed. R. Civ. P. 41(a)(1)(ii).

Plaintiff's Motion to Appoint Counsel

On February 11, 2016, the plaintiff filed a motion to appoint counsel. (Dkt. No. 51.) He contends that because he is not a lawyer he will be unable to adequately present his arguments to the Court. The plaintiff also states that he has unsuccessfully attempted to find an attorney on his own.

The plaintiff filed the same motion in Case Number 15-cv-795. For the reasons stated in the Court's order in that case, the Court will deny the plaintiff's request for counsel.

Plaintiff's Motion for Medical Expert

The plaintiff has filed a Motion for Diagnostic Evaluation by an Independent Licensed Psychologist and Psychiatrist. (Dkt. No. 53). He filed the same motion in his other case, Case Number 15-cv-795. For the reasons stated in the Court's order in that case, the Court will deny the motion.

Consolidation with Case Number 15-cv-795

In the plaintiff's other case, *Gulley-Fernandez v. Johnson*, Case Number 15-cv-795-RTR, the defendants filed a motion to consolidate the case with this case. The plaintiff joined in the motion, and the Court granted the motion. Therefore, this case will be consolidated with Case Number 15-cv-795 for future proceedings.

**NOW, THEREFORE, BASED ON THE FOREGOING, IT IS HEREBY ORDERED THAT** the plaintiff's motion for summary judgment and motion for preliminary injunction relief due to imminent danger (ECF No. 43) is **DENIED**.

**IT IS FURTHER ORDERED** that the plaintiff's motion for emergency motion for summary judgment (ECF No. 44) is **DENIED**.

**IT IS FURTHER ORDERED** that the plaintiff's motion for impartial jury (ECF No. 45) is **DENIED AS MOOT**.

**IT IS FURTHER ORDERED** that the plaintiff's motion to dismiss defendants David Gardner, Troy Hermans, and Gary Boughton (ECF No. 46) is **GRANTED**. Defendants Gardner, Hermans, and Boughton are **DISMISSED**.

**IT IS FURTHER ORDERED** that the plaintiff's motion to appoint counsel (ECF No. 51) is **DENIED**.

**IT IS FURTHER ORDERED** that the plaintiff's motion for

temporary restraining order and preliminary injunction (ECF No. 52) is **DENIED**.

**IT IS FURTHER ORDERED** that the plaintiff's motion for diagnostic evaluation by independent licensed psychologist (ECF No. 53) is **DENIED**.

**IT IS FURTHER ORDERED** that this case is **CONSOLIDATED** with Case No. 15-cv-795-RTR.

IT IS FURTHER ORDERED that all future filings related to Case Number 15-cv-795-RTR or Case Number 15-cv-995-RTR must be in Case Number 15-cv-795-RTR.

Dated at Milwaukee, Wisconsin, this 21st day of March, 2016.

**BY THE COURT:**

  
HON. RUDOLPH T. RANDA  
U.S. District Judge